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May 15, 1996

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BY HAND

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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RE: In the Matter of Amendment of Parts 73 and 74 of the
Commission's Rules to Permit Certain Minor Changes
in Broadcast Facilities without a Construction Permit
Comments of KSBJ Educational Foundation, Inc.
MM Docket No. 96-58

Dear Mr. Caton:

Enclosed please find the original and fourteen (14) copies of Comments
of KSBJ Educational Foundation, Inc. for filing with the Commission in
connection with the above-captioned.

If you should have any questions regarding this matter, kindly direct
them to the undersigned.

Yours truly,


Bradford D. Carey

BDC/mv
Enclosures

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Before the
Communications C
Washington, D.C. 20554

In the Matter of)
)
Amendment of Parts 73 and 74) MM Docket No. 96-58
of the Commission's Rules To)
Permit Certain Minor Changes)
In Broadcast Facilities)
Without a Construction Permit)

TO: The Commission

COMMENTS OF KSBJ EDUCATIONAL FOUNDATION,
INC.

The KSBJ Educational Foundation, Inc. ("KSBJ"), by its undersigned Counsel, hereby states its Comments in response to the Notice of Proposed Rulemaking (61 Fed. Reg. 15439, April 8, 1996) ("NPRM") in the above captioned proceeding. The KSBJ Educational Foundation, Inc. is the licensee of Non-Commercial Educational FM Station KSBJ, Humble, Texas. KSBJ's service area includes the Houston, Texas urban area.

As a general matter, KSBJ favors elimination of unnecessary paper-work and procedures in the Commission's regulation of broadcast stations. KSBJ notes, however, that the relief proposed in the NPRM is directed almost exclusively toward commercial FM stations and television stations.

Licenseses of non-commercial, educational, FM ("NCE-FM") stations, as a group, are often the most ill equipped financially, managerially and technically to

cope with complex, all-to-often slow, and expensive permitting requirements. Yet, the NPRM offers NCE-FM little, if any, real relief.¹ KSBJ proposes that the Commission should, and may, provide substantial relief from excessive, sometimes possibly prohibitive, permitting regulations and policies which not only increase the burdens of cost, complexity and delay on the NCE-FM stations involved, but sometimes actually prohibit NCE-FM station improvements which would result in the public receiving increased service from several stations.

Unlike stations authorized to operate in the commercial (non-reserved for NCE-FM stations) portion of the FM broadcast band², where each station operates on an allotment established in the table of allotments, NCE-FM stations operate under a "find and file" system, whereby a station may be authorized to operate with any facilities (between the minimum for class A and the maximum for class B or C stations) *provided that the proposed station would not violate specified interference standards.*

¹The proposal at paragraph 24 to adopt as a rule certain processing policies of the Audio Services Division may be wise, but it is not of the type that relieves NCE-FM licensees of existing permitting burdens.

²Television stations also operate under a table of allotments scheme.

Presently, applications to modify existing NCE-FM stations are governed by FCC Rule § 73.3573, which provides, *inter alia*, that applications to alter the coverage of NCE-FM stations by more than 50% (or to change community of license and/or channel of operation) are "major changes." Thus, these applications are subjected to competing applications. In practice, when this and several other rules are applied together, applications of two or more stations to exchange frequencies and/or move transmitters to improve their coverage face procedural road blocks such as the "contingent application rule."³

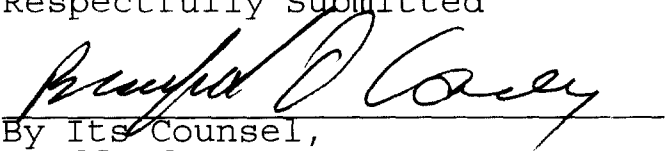
KSBJ believes that where two or more stations operate on one or more channel(s), and studies demonstrate that these stations could exchange channels amongst themselves to improve their facilities (with or without changes to communities of license), they should be permitted to do so. Consistent with the stated purpose of this rulemaking, KSBJ believes that where all of the spectrum to be occupied is presently occupied by the stations involved, or could be occupied by them without increasing their present coverage more than 50% without

³A commercial FM broadcast station may by simple application claim spectrum beyond that encompassed by its present allotment, and may be upgraded on any channel where its present operation is mutually exclusive with the proposed operation. By contrast, there is no similar rule provision for NCE-FM station upgrades.

respect to the other stations involved, the stations should be permitted to seek "one-step" modifications of licenses to specify the upgraded facilities.

KSBJ, therefore, urges that the Commission to carefully review its rules related to construction permit applications and delete any rule that impedes NCE-FM stations from voluntarily seeking to swap frequencies amongst themselves and/or change the location of stations where the public interest would be better served thereby.

Respectfully Submitted


By Its Counsel,
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Dated: May 14, 1996

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